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HOGAN & HARTSON L.L.P.
1999 Avenue of the Stars
Suite 1400
Los Angeles, CA 90067

In re Application of
SHIKATA et al
Application No.: 10/578,025
PCT No.: PCT/JP2004/016128
Int. Filing Date: 29 October 2004
Priority Date: 30 October 2003
Attorney Docket No.: 81880.0145
For: BIOMEDICAL MEMBER AND METHOD
FOR PRODUCING THE SAME

DECISION

This decision is in response to the petition filed 27 December 2006 and resubmitted on 30 July 2008.

BACKGROUND

On 27 April 2006, applicants filed papers to enter the national stage of PCT/JP2004/016128 which included the Basic National fee and \$130.00 surcharge fee.

On 27 December 2006, applicants filed a declaration executed by three inventors along with the subject petition and a \$130.00 processing fee.

On 30 July 2008, applicants resubmitted the subject petition.

On 31 July 2008, a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt were mailed indicating completion of 35 U.S.C. 371 requirements on 27 December 2006.

DISCUSSION

Applicants filed a request under 37 CFR 1.48(a) to correct inventorship with the declaration on 27 December 2006 along with a \$130.00 processing fee. Applicants resubmitted the petition on 30 July 2008.

The international publication for PCT/JP2004/016128 lists the name of the third inventor as Iso WANG. The declaration filed 27 December 2006 recorded the name of the third inventor as Yucong WANG. Applicants explain that this was the result of a spelling error on the PCT Request.

A request under 37 CFR 1.48(a)¹ is not appropriate here. If the third named inventor changed his name legally, a petition under 37 CFR 1.182 is required. See § 605.04(c) MPEP. If, on the other hand, the third named inventor has not legally changed his name, a new declaration signed using the name listed on the international publication for each inventor is needed, or counsel must provide an adequate explanation regarding the change such as a transliteration error. See § 201.03 MPEP.

Here, applicants state that the "name of inventor Yucong Wang was spelled incorrectly on the PCT Request." This explanation is insufficient. The discrepancy in the spelling between the name **Iso** and the name **Yucong** is too great to be called a spelling error. Applicants must provide a more detailed explanation, or submit a petition to change the name of the inventor.

DECISION

The petition under 37 CFR 1.48(a) is **DISMISSED** as **MOOT**.

The \$130.00 processing fee has been credited to Deposit Account No. 50-1314.

For the reasons noted above, the declaration filed 27 December 2006 is not in compliance with 37 CFR 1.497(a)(3) as it does not properly identify each inventor.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 31 July 2008 are hereby **VACATED**.

Applicants must provide an adequate response within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson
James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

¹ 37 CFR 1.497(d) for national stage applications. See § 1893.01(e). The requirements are identical.